UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,962	12/15/2003	Mark Anthony Howard	D/A 3284	3390

65850 7590 02/22/2007 HARRITY SNYDER, L.L.P. 11350 RANDOM HILLS RD. SUITE 600 FAIRFAX, VA 22030	EXAMINER RAYYAN, SUSAN F

ART UNIT	PAPER NUMBER
2167	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/735,962	HOWARD ET AL.
	Examiner	Art Unit	
	Susan F. Rayyan	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 December 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Arguments

1.   Applicant's arguments filed December 6, 2006 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., metadata server (page 6, lines 13-14 of amendment)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., central metadata repository, page 8, line 5) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues the index server of Adams (US 2002/0046232) is not similar to the claimed metadata repository. Examiner finds Adams' Central Index Server stores information on the file including file name, file type, category location on the network which equates to the claimed metadata repository.

Applicant argues prior art of record does not teach uploading a shared file from a

file sharing user for local storage on a metadata repository when a plurality of requests

for a shared file exceed a predetermined threshold. Examiner finds Seed et al (US

2006/0015574) teaches at paragraph 44, lines 1-4 an object is replicated into storage

when the popularity of the object is greater than the initial threshold . In addition at

paragraph 10, lines 1-15 Seed teaches a content delivery networks with servers hosting

objects and those objects include audio files, video files image files and any other

software or data files.

DETAILED ACTION

2.   Claims 1-20 are pending.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 1,3-7,13-14,19-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over US Patent Application Publication Number 2002/0046232

issued to Colin John Adams ("Adams") in view of US Patent Application

Publication Number 2004/018487 issued to Eric A. Hanson ("Hanson") and further

in view of US 2004/0199604 issued to Kurt A. Dobbins et al ("Dobbins").

As per claim 1, Adams teaches a method for fulfilling a file-sharing query (abstract),

comprising:

 providing a user interface (UI) to a querying user, the UI for entering a query to a

metadata repository (see paragraph 18-19, Adams' central index server is taught in a

manner similar to the claimed metadata repository) ;

receiving a query from the querying user via the UI, the shared file satisfying the query

based on the stored metadata (paragraph 19);

and transmitting an identification of the shared file to the querying user(paragraph 20).

Adams does not explicitly teach transmitting a client-side application to a file-sharing

user having a shared file, the client-side application for generating metadata

corresponding to the shared file and receiving and storing the metadata from the file-

sharing user. Hanson does teach transmitting a client-side application to a file-sharing

user having a shared file, the client-side application for generating metadata

corresponding to the shared file and receiving and storing the metadata from the file-

sharing user (paragraph 47, paragraph 65, lines 1-5) to reduce distribution costs,

facilitate distribution of content and ensure content owners receive benefits (see

summary). It would have been obvious to one of ordinary skill in the art at the time of

the invention to modify Adams with transmitting a client-side application to a file-sharing

user having a shared file, the client-side application for generating metadata

corresponding to the shared file and receiving and storing the metadata from the file-

sharing user to reduce distribution costs, facilitate distribution of content and ensure

content owners receive benefits (see summary).

Adams and Hanson do not explicitly teach bandwidth being allocated to the fie-

sharing user at a first level and wherein the bandwidth is allocated to the querying user

at a second level lower than a first level. Dobbins does teach bandwidth being allocated

to the fie-sharing user at a first level (paragraph 111, lines 1--8, as the subscriber

chooses a music selection and interactively selects a download selection) and wherein

the bandwidth is allocated to the querying user at a second level lower than a first level

(paragraph 111, lines 25-28, provide the transport service of high bandwidth) to enable

end users to purchase higher bandwidth upon demand as a means of enhancing time-

based value of content . It would have been obvious to one of ordinary skill in the art at

the time of the invention to modify Adams and Hanson with bandwidth being allocated

to the fie-sharing user at a first level and wherein the bandwidth is allocated to the

querying user at a second level lower than a first level to enable end users to purchase

higher bandwidth upon demand as a means of enhancing time-based value of content

(paragraph 62, lines 18-21).

As per claim 3, same as claim arguments above and Adams teaches:

The method of claim 1, said client-side application generating the metadata using an

abstracting program (paragraph 49).

As per claim 4, same as claim arguments above and Adams teaches:

The method of claim 1, said UI comprising a proprietary UI of the metadata repository

(paragraph 18-19).

As per claim 5, same as claim arguments above and Adams teaches:

The method of claim 1, said transmitting an identification further comprising:

transmitting a hyperlink to the querying user in response to the query, wherein a

selection of the hyperlink by the querying user initiates a transmission of the shared file

from the file-sharing user to the querying user (paragraph 15, lines 21-23).

As per claim 6, same as claim arguments above and Adams teaches:

The method of claim 1, further comprising: storing the shared file locally based on a

characteristic of the shared file (paragraph 52).

As per claim 7, same as claim arguments above and Adams teaches:

The method of claim 6, said transmitting an identification further comprising:

transmitting a hyperlink to the querying user in response to the query, wherein a

selection of the hyperlink by the querying user initiates a transmission of the shared file

from the metadata repository to the querying user (paragraph 15, lines 21-23 and

paragraph 21-23).

As per claim 13, same as claim arguments above and Hanson teaches:

The method of claim 1, further comprising: providing a payment to the file-sharing user

for the shared file transmitted to the querying user (paragraph 65).

As per claim 14, same as claim arguments above and Hanson teaches:

The method of claim 13, further comprising: receiving a payment from the querying

user for the shared file (paragraph 65).

As per claim 19 Adams teaches:

receiving a query from a user in the searching class, the metadata satisfying the query

(paragraphs 18-19);

and providing an identification of the shared file to the user in the searching class

(paragraph 20).

Adams does not explicitly teach establishing at least two classes of users that

interact with a metadata repository over a network, the at least two classes including a

sharing class that primarily provides data and a searching class that primarily searches

for data and receiving metadata identifying a shared file from a user in the sharing

class. Hanson does teach establishing at least two classes of users that interact with a

metadata repository over a network, the at least two classes including a sharing class

that primarily provides data (paragraph 65, selling side) and a searching class that

primarily searches for data (paragraph 40, user a);

receiving metadata identifying a shared file from a user in the sharing class (paragraphs

47,65) to reduce distribution costs, facilitate distribution of content and ensure content

owners receive benefits (see summary). It would have been obvious to one of ordinary

skill in the art at the time of the invention to modify Adams with establishing at least two

classes of users that interact with a metadata repository over a network, the at least two

classes including a sharing class that primarily provides data, a searching class that

primarily searches for data, and receiving metadata identifying a shared file from a user

in the sharing class to reduce distribution costs, facilitate distribution of content and

ensure content owners receive benefits (see summary).

Adams and Hanson do not explicitly teach higher levels of network resources are

allocated to the sharing class than to the searching class. Dobbins does teach these

limitations (paragraph 111, lines 1--8, as the subscriber chooses a music selection and

interactively selects a download selection and paragraph 111, lines 25-28, provide the

transport service of high bandwidth) to enable end users to purchase higher bandwidth

upon demand as a means of enhancing time-based value of content. It would have

been obvious to one of ordinary skill in the art at the time of the invention to modify

Adams and Hanson with higher levels of network resources are allocated to the sharing

class than to the searching class to enable end users to purchase higher bandwidth

upon demand as a means of enhancing time-based value of content (paragraph 62,

lines 18-21).

As per claim 20, same as claim arguments above and Adams teaches:

The method of claim 19, further comprising: uploading the shared file from the user in

the sharing class for distribution to users in the searching class when the shared file

satisfies a predetermined condition (paragraphs 21-23).

Claims 2,9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication Number 2002/0046232 issued to Colin John Adams ("Adams") in view of US Patent Application Publication Number 2004/018487 issued to Eric A. Hanson ("Hanson") and further in view of US Patent Application Publication Number 2002/0143976 issued to Reed A. Barker et al ("Barker") and further in view of US 2004/0199604 issued to Kurt A. Dobbins et al ("Dobbins").

As per claim 2, same as claim arguments above and Adams and Hanson and Dobbins do not explicitly teach periodically receiving and storing updated metadata from the client-side application. Barker does teach periodically receiving and storing updated metadata from the client-side application (paragraph 28) to allow a content provider to manage metadata locally and to maintain control over editing of metadata (paragraph 7, lines 1-3).

As per claim 9, same as claim arguments above and Adams and Hanson and Dobbins do not explicitly teach wherein the metadata is transmitted to at least one other metadata repository for storage and the shared file is not transmitted to any other metadata repository for storage.

Barker does teach explicitly teach wherein the metadata is transmitted to at least one other metadata repository for storage and the shared file is not transmitted to any other metadata repository for storage (paragraphs 8,28). It would have been obvious to one of ordinary skill in the art to modify Adams and Hanson with wherein the metadata

is transmitted to at least one other metadata repository for storage and the shared file is

not transmitted to any other metadata repository for storage to allow a content provider

to manage metadata locally and to maintain control over editing of metadata (paragraph

7, lines 1-3).

As per claim 10, same as claim arguments above and Adams and Hanson and

Dobbins do not explicitly teach receiving updated metadata for storage and transmitting

the updated metadata to at least one other associated metadata repository to facilitate

queries directed to the at least one other associated metadata repository.

Barker does teach receiving updated metadata for storage and transmitting the

updated metadata to at least one other associated metadata repository to facilitate

queries directed to the at least one other associated metadata repository (paragraph 28)

to allow a content provider to manage metadata locally and to maintain control over

editing of metadata (paragraph 7, lines 1-3). It would have been obvious to one of

ordinary skill in the art to modify Adams and Hanson with receiving updated metadata

for storage and transmitting the updated metadata to at least one other associated

metadata repository to facilitate queries directed to the at least one other associated

metadata repository to allow a content provider to manage metadata locally and to

maintain control over editing of metadata (paragraph 7, lines 1-3).

As per claim 11, same as claim arguments above and Barker teaches:

said transmitting the updated metadata further comprising: transmitting the updated

metadata in a parallel, pair wise protocol with the at least one other metadata repository

(paragraph 8).

Claims 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent Application Publication Number 2002/0046232 issued to Colin John Adams

("Adams") in view of US Patent Application Publication Number 2004/018487

issued to Eric A. Hanson ("Hanson") and in view of US 2004/0199604 issued to

Kurt A. Dobbins et al ("Dobbins") and further in view of US Patent Application

Publication Number 2006/0015574 issued to Steven L. Seed et al ("Seed").

As per claim 8, same as claim arguments above and Adams and Hanson and Dobbins

do not explicitly teach the characteristic comprising a threshold popularity of the shared

file. Seed does teach the characteristic comprising a threshold popularity of the shared

 file (paragraph 44) to reduce network congestion (paragraph 10, lines 20-21). It would

have been obvious to one of ordinary skill in the rat at the time of the invention to modify

Adams and Hanson with the characteristic comprising a threshold popularity of the

shared file to reduce network congestion (paragraph 10, lines 20-21).

Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent

Application Publication Number 2002/0046232 issued to Colin John Adams

("Adams") in view of US Patent Application Publication Number 2004/018487

issued to Eric A. Hanson ("Hanson") and US 2004/0199604 issued to Kurt A.

Dobbins et al ("Dobbins") and further in view US Patent Application Publication

2003/0217152 issued to David J. Kasper II ("Kasper").

As per claim 12, same as claim arguments above and Adams and Hanson and

Dobbins do not explicitly teach periodically receiving updated metadata from a second

metadata repository . Kasper does teach periodically receiving updated metadata from

a second metadata repository (paragraphs 20-21, 48-50) to update local databases

(paragraph 24). It would have been obvious to one of ordinary skill in the art at the time

of the invention to modify Adams and Hanson with periodically receiving updated

metadata from a second metadata repository to update local databases (paragraph 24).

Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication Number 2002/0046232 issued to Colin John Adams ("Adams") in view of US Patent Application Publication Number 2004/018487 issued to Eric A. Hanson ("Hanson") and further in view of US Patent Application Publication Number 2006/0015574 issued to Steven L. Seed et al ("Seed") and further in view of US Patent Application Publication 2003/0217152 issued to David J. Kasper II ("Kasper").

As per claim 15 Adams teaches:

A method for facilitating file-sharing queries (see abstract), comprising:

storing the metadata locally at a first metadata repository to facilitate search queries from querying users received by the first metadata repository (paragraph 20, central index).

Adams does not explicitly teach receiving metadata files from a plurality of file-sharing users, the metadata files corresponding to shared files. Hanson does teach receiving metadata files from a plurality of file-sharing users, the metadata files corresponding to shared files (paragraph 47 and paragraph 65, lines 1-5) to reduce distribution costs, facilitate distribution of content and ensure content owners receive benefits (see summary). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Adams with receiving metadata files from a plurality of file-sharing users, the metadata files corresponding to shared files to reduce distribution costs, facilitate distribution of content and ensure content owners receive benefits (see summary).

Adams and Hanson do not explicitly teach uploading a shared file from a file-sharing user for local storage on a metadata repository when a plurality of search requests for the shared file exceed a predetermined threshold and periodically synchronizing stored metadata with a second metadata repository for facilitating queries from querying users received by the first and second metadata repositories. Seed does teach uploading a shared file from a file-sharing user for local storage on a metadata repository when a plurality of search requests for the shared file exceed a predetermined threshold (paragraph 44, lines 1-4 to reduce network congestion (paragraph 10, lines 20-21). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Adams and Hanson with uploading a shared file from a file-sharing user for local storage on a metadata repository when a plurality of search requests for the shared file exceed a predetermined threshold to reduce network congestion (paragraph 10, lines 20-21).

Adams, Hanson and Seed do not explicitly teach periodically synchronizing stored metadata with a second metadata repository for facilitating queries from querying users received by the first and second metadata repositories. Kasper does teach periodically synchronizing stored metadata with a second metadata repository for facilitating queries from querying users received by the first and second metadata repositories (paragraphs 20-21, 48-50) to update local databases from master databases (paragraph 24). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Adams Hanson and Seed with periodically synchronizing stored metadata with a second metadata repository for facilitating queries

from querying users received by the first and second metadata repositories) to update

local databases from master databases (paragraph 24).

As per claim 16, same as claim arguments above and Adams teaches:

The method of claim 15, wherein the queries received by the metadata repository are

not transmitted to the second metadata repository and queries received by the second

metadata repository are not transmitted to the first metadata repository (paragraph 19-

19).

As per claim 17, same as claim arguments above and Hanson teaches:

transmitting a client-side application to a file-sharing user having the shared file, the

client-side application for generating metadata corresponding to the shared

file(paragraph 47, paragraph 65, lines 1-5).

As per claim 18, same as claim arguments above and Adams teaches:

receiving a query from a querying user and transmitting an identification of a shared file

satisfying the query to the querying user (paragraphs 19-20).

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Contact Information

5.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Susan Rayyan whose telephone number is (571) 272-

1675. The examiner can normally be reached M-F: 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone

number for the organization where this application or proceeding is assigned is

703-872-9306.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Rayyan

February 12, 2007

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100